

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LARRY YOUNG,

Petitioner,

vs.

JERRY BROWN, Governor,

Respondent.

No. C 15-3198 WHA (PR)

ORDER OF TRANSFER

(Dkt. No. 2)

Petitioner has filed a form habeas petition under 28 U.S.C. 2241. Petitioner is being held in Coalinga State Hospital in Coalinga, California, under California's Sexual Violent Predator Act ("SVPA"). *See* Cal. Welf. & Inst. Code 6600, et seq. He is currently awaiting trial to determine whether he is a Sexually Violent Predator subject to civil commitment under the SVPA. In his petition, he argues that the California Department of State Hospitals is violating his double jeopardy rights by using certain standards, procedures, and assessment tools to determine if he is a Sexually Violent Predator. He also argues that abstention is not appropriate.

Section 2241 is the proper basis for the petition because petitioner is a pretrial detainee challenging the constitutionality of his confinement. *See Hoyle v. Ada County*, 501 F.3d 1053, 1058 (9th Cir. 2007) (Section 2241 proper basis for pre-trial double jeopardy challenge). Although this court may have jurisdiction to hear a petition brought under Section 2241, *see Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 494-95 (1973), *Braden* also makes clear

1 that "venue considerations may, and frequently will, argue in favor of adjudication of the
2 habeas claim in the jurisdiction where the habeas petitioner is confined." *Chatman-Bey v.*
3 *Thornburgh*, 864 F.2d 804, 814 (D.C. Cir. 1988). The preferable forum for a Section 2241
4 habeas petition is the district of confinement. *See McCoy v. United States Bd. of Parole*, 537
5 F.2d 962, 966 (8th Cir. 1976); *see also Dunne v. Henman*, 875 F.2d 244, 249-50 (9th Cir. 1989)
6 (suggesting that even where district court has personal jurisdiction over custodian, preferred
7 forum for 2241 petition is district where petitioner confined).

8 The commitment proceedings are in San Francisco County, which is in this district, and
9 he is confined in Fresno County, which is in the Eastern District of California. *See* 28 U.S.C.
10 84. Pursuant to 28 U.S.C. 1404(a) and Habeas L.R. 2254-3(b), and in the interests of justice,
11 this petition is **TRANSFERRED** to the United States District Court for the Eastern District of
12 California. Ruling on the request to proceed in forma pauperis will be deferred to the Eastern
13 District.

14 The clerk shall transfer this matter forthwith.

15 **IT IS SO ORDERED.**

16 Dated: August 31, 2015.

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18 WILLIAM ALSUP
19 UNITED STATES DISTRICT JUDGE
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